

DEPARTMENT OF JUSTICE

HB 401: Amend Definition of "Rotation Area" in

the Tow Truck Act

Background

The Montana Highway Patrol (MHP) is charged with maintaining an equitable rotation system, which dispatches tow trucks to wrecked or disabled vehicles when the owner of the vehicle does not have a preference for a particular tow truck company. There is a separate rotation system for small trucks, which handle average wrecks with passenger vehicles, and a large rotation system for more complex wrecks that involve semi trucks or other large vehicles. Large truck rotation calls may involve cleanup of hazardous materials, spilled produce or scattered livestock, making these calls lucrative for the responding tow company.

Currently, Montana law requires the large rotation area to include "at least the entire county in which the operation is located." In a few areas, the minimum county-wide requirement results in slower response times because the nearest large truck operator may be in a neighboring county, but due to the statutory requirement, MHP must call an operator in the same county as the wreck even if the operator is further away. See *examples attached as Figure 5*. The result in some situations is that the assigned tow truck is many miles farther than another, closer large tow truck.

The Legislative Audit Division reviewed the Montana Professional Tow Truck Act in September, 2010. The audit report concluded that "addressing this situation by allowing for dispatch of large tow trucks based on proximity, rather than county boundaries, should improve the highway patrol's ability to effectively respond to such large-scale incidents." It made a specific recommendation that "the department address the criteria for construction of large tow truck rotation areas to emphasize improved response times."

The bill was requested by the Montana Tow Truck Association, with support from the Department of Justice. The relevant portion of Legislative Audit Report 09P-15 is attached.

Provisions of HB 401

The amended definition of rotation area will:

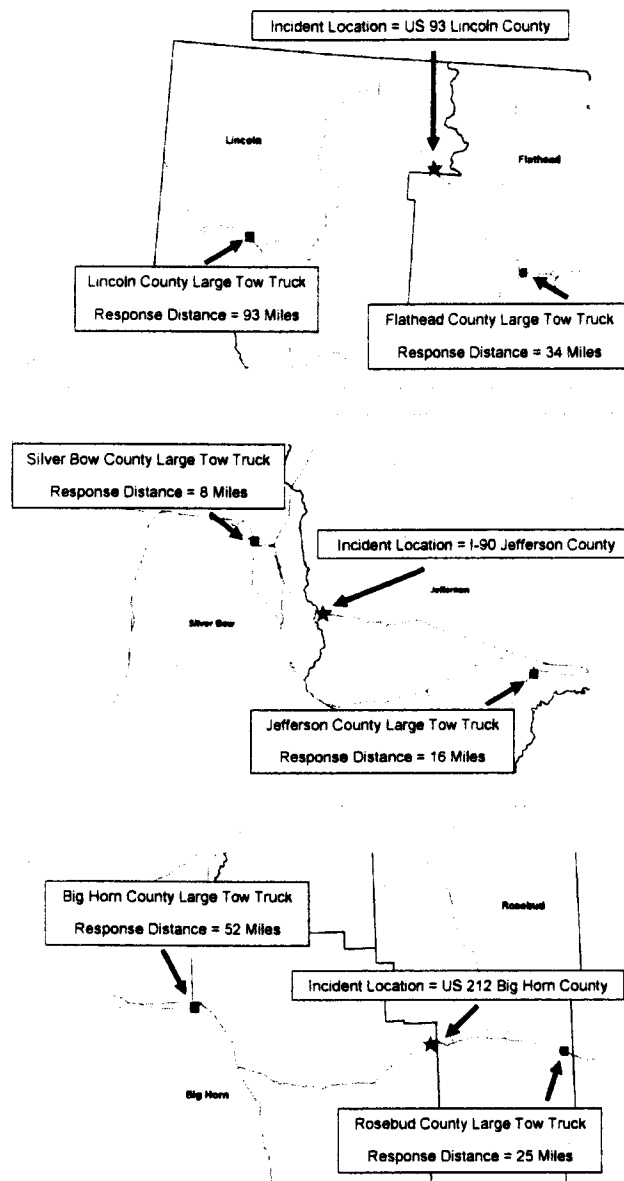
- Allow MHP to create large rotation areas based on proximity to wrecks, rather than county lines. Changes to the current large rotation system will likely be minimal, only addressing the few areas in the state where this is a problem.
- Provide faster response time to large-scale incidents, which will protect public health and safety. Quickly clearing accidents will minimize delays to the motoring public and commercial traffic on highways.
- Address the concerns of the legislative audit report.

Response Times for Large Tow Trucks

The Professional Tow Truck Act contains a specific requirement for use of large tow trucks. These trucks are used to right semitrailers and other large vehicles. This is also a very competitive and potentially lucrative market; incidents such as these might involve cleanup of hazardous materials, spilled produce or scattered livestock, for example. Charges for these types of recovery operations may exceed \$10,000.

Section 61-8-903(6), MCA, assigns at least the entire county as a rotation area for a large tow truck, if that operator is the only one of its kind in the county (a large tow truck rotation can also be expanded to additional counties). This also constrains the highway patrol's ability to create tow areas smaller than a county. These have created situations where the assigned tow truck is many miles farther than another, closer large tow truck. For example, an incident on one side of a county line could create situations where tow truck response might be twice as far away (see Figure 5). Counties with only one large tow truck operator were identified in Big Horn, Lincoln and Powder River counties. For example, a Lincoln County call on U.S. Highway 93 that is in Flathead County must be answered by a tow truck located nearly three times farther than the closest truck. Figure 5 shows similar situations in Jefferson (with two large tow truck companies) and Big Horn (with one large tow truck company) counties.

Figure 5
Large Tow Truck Response Scenarios



Source: Compiled by the Legislative Audit Division.

The highway patrol has already recognized the difficulty of the situation in one instance, brokering a solution between 13 large tow truck operators, who share one county between three rotational areas. This solution illustrates the conflict between construction of rotations areas for large tow trucks and the need for fast response times. Addressing this situation by allowing for dispatch of large tow trucks based on proximity, rather than county boundaries, should improve the highway patrol's ability to effectively respond to such large-scale incidents.

RECOMMENDATION #5

We recommend the department address the criteria for construction of large tow truck rotation areas to emphasize improved response times.
